



October 14, 2016

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Protecting the Privacy of Customers of Broadband and Other Telecommunication Services*, WC Docket No. 16-106

Dear Ms. Dortch:

On October 13, 2016, EchoStar Corporation and Hughes Network Systems, LLC (“Hughes”) met with Nicholas Degani, legal advisor to Commissioner Pai, to discuss issues in the above-referenced proceeding. Hughes was represented by Jennifer A. Manner, Senior Vice President, Regulatory Affairs, and Jodi Goldberg, Associate Corporate Counsel, Regulatory Affairs.

In the meeting the parties discussed the attached talking points, explaining Hughes’s concerns regarding the design of the proposed layered privacy notices and reporting requirements for broadband providers, which was distributed to Mr. Degani.

Pursuant to the Commission’s rules, this notice is being filed in the above-referenced dockets for inclusion in the public record. Please contact me should you have any questions.

Respectfully submitted,

/s/ Jodi Goldberg

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Flexible Compliance Mechanisms, including Safe Harbors, Will Increase Consumer Confidence in the Privacy of Personal Information

Clear Privacy Notices and Voluntary Safe Harbors Will Enhance Consumers' Broadband Privacy

- Hughes supports the FCC's proposal to provide a "nutrition label" template as a voluntary compliance safe harbor, which will benefit consumers by increasing the homogeneity of privacy disclosures and enhancing their ability to compare key aspects of providers' privacy policies.
- Rather than requiring "layered" privacy notices, which could give rise to consumer confusion, the FCC should require broadband providers to provide customers with a minimum level of information and allow providers to develop a clear disclosure format.

Consumers Should Have Maximum Flexibility in Providing and Updating Consent

- Broadband providers should be required to inform consumers of their privacy options when they sign up for service, and to update consumers' decisions regarding privacy preferences when they are affirmatively communicated to the provider.
- Rather than requiring customers to periodically refresh their privacy choices, service providers should be allowed to voluntarily provide a dashboard or web link that consumers can use to control their preferences.
- If the FCC requires the mandatory use of an online dashboard, it should provide a template similar to the nutrition label that would serve as a safe harbor.
- The FCC should allow broadband providers 10 business days to implement a consumer's request to opt-in or opt-out of permitted uses of their customer PI.

Data Security Requirements Should be Straightforward and Not Redundant

- Ten days is not sufficient time to allow broadband providers to assess a suspected breach and compile required reports. The FCC should stipulate that broadband providers must report a breach within 30 days (extendable for 30 days periods) from the discovery of that breach.
- To avoid confusion, the same 30 day renewable time frame should also apply to notices to the FCC and law enforcement agencies. This aligns with the FCC's proposal with the Personal Data Notification and Protection Act of 2015 ("Act"), which proposes a national 30 day standard for data breach notification.

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- The Act also provides a safe harbor for businesses that have conducted a risk assessment and found no reasonable risk that a security breach has resulted in or will result in harm to individuals whose sensitive personal information was subject to the security breach and that notify the Federal Trade Commission the results of this assessment within 30 days. The FCC should adopt this proposed safe harbor.
- The FCC should adopt its proposal that each broadband provider should be able to design its own risk management program and should decline to adopt periodic technical audits such as penetration test.
- Preempting inconsistent state privacy laws will avoid diverting valuable resources away from resolving broadband privacy issues

Limiting Recordkeeping Requirements Will Expedite Retrievals and Avoid Legal Risk

- The FCC should only require broadband providers to retain a record of any discovered breach and notification for six months. This approach would ensure that customers' records are retained for a reasonable period following the termination of service, as well as provide the FCC and law enforcement agencies with sufficient access to records to conduct investigations of consumer complaints.
- Retaining customer records for longer than six months would increase the amount of customer PI that could potentially be subject to a data breach and would impose unnecessary administrative burdens, data storage and processing costs on broadband providers.

Consumers Should Be Free to Enter into Arbitration Agreements

- The FCC should permit broadband providers to continue to include clear and transparent arbitration clauses in customer privacy agreements. This provides benefits to consumers and service providers by expediting resolution of disputes and reducing costs.